

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT ALAN WOLF,

Petitioner,

V.

DR. KAMRAM NAFICY,

Respondent.

No. C11-6013 RBL/KLS

**ORDER DECLINING TO SERVE
PETITION AND GRANTING LEAVE TO
AMEND**

Petitioner Robert Alan Wolf filed a petition for writ of habeas corpus challenging his civil commitment to the Western State Hospital on December 8, 2011. Mr. Wolf states that he was committed to Western State for ninety days on November 14, 2011. ECF No. 1-1. His motion for leave to proceed *in forma pauperis* is pending. ECF No. 1.

Civilly committed persons may pursue habeas relief under 28 U.S.C. Section 2254 to challenge their involuntary civil commitment. *Duncan v. Walker*, 533 U.S. 167, 176, 121 S.Ct. 2120, 150 L.Ed.2d 251 (2001) (stating that a state court order of civil commitment satisfies Section 2254's "in custody" requirement); *Huftile v. Miccio-Fonseca*, 410 F.3d 1136, 1139-40 (9th Cir. 2005), *cert. denied*, 547 U.S. 1166, 126 S.Ct. 2325, 164 L.Ed.2d 844 (2006) ("[D]etainees under an involuntary civil commitment scheme ... may use a § 2254 habeas petition to challenge a term of confinement."). However, Mr. Wolf may pursue federal habeas relief only *after* he has exhausted his state judicial remedies. *See Preiser v. Rodriguez*, 411 U.S. 475, 500, 93 S.Ct. 1827, 36 L.Ed.2d 439 (1973). The exhaustion of state court remedies is a prerequisite to the granting of a petition for writ of habeas corpus. 28 U.S.C. § 2254(b)(1).

1 A petitioner can satisfy the exhaustion requirement by providing the highest state court
2 with a full and fair opportunity to consider all claims before presenting them to the federal court.
3 *Picard v. Connor*, 404 U.S. 270, 276 (1971); *Middleton v. Cupp*, 768 F.2d 1083, 1086 (9th Cir.
4 1985). Full and fair presentation of claims to the state court requires “full factual development”
5 of the claims in that forum. *Kenney v. Tamayo-Reyes*, 504 U.S. 1, 8 (1992).

6 Accordingly, the Court shall not serve the petition. Mr. Wolf shall file by no later than
7 **January 27, 2012**, an amended petition under 28 U.S.C. § 2254 showing that his grounds for
8 federal relief have been properly exhausted in state court or show cause why this matter should
9 not be dismissed.

10 The Clerk shall send a copy of this Order to Mr. Wolf and the Court’s form petition for
11 28 U.S.C. § 2254 petitions.

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14 **DATED** this 3rd day of January, 2012.

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17 Karen L. Strombom
18 United States Magistrate Judge
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